

REMARKS

Claim 18 has been amended to incorporate the limitations of claim 19, 20, and 21 in a markush group. Claim 33 has been amended as suggested by the Examiner. No new matter has been added.

Deposit of Hybridomas with ATCC

The specification and claims 19-21, 23-25, and 28-32 have been objected to because a statement that the deposit of the hybridomas has been made under the terms of the Budapest Treaty is not included in the specification and has not been submitted in a declaration by Applicants. Applicants now enclose herewith a Declaration stating that the deposit of the hybridomas has been made under the terms of the Budapest Treaty and that all restrictions imposed by the depositor on the availability to the public of the deposited material will be irrevocably removed upon the granting of a patent. A similar statement has been inserted into the specification. It is believed that this Declaration and amendment to the specification should be sufficient to overcome the objection.

Priority Date

The Examiner has indicated that claims 19-21, 23-25, and 28-32 are not accorded the filing date of the claimed priority document U.S. Serial No. 60/112,390 because "the instant claims recite hybridoma cell lines and antibodies which were not disclosed in said priority document". Applicants respectfully disagree.

The subject matter of the instant patent application should be accorded the filing date of the provisional priority document 60/112,390 filed on December 15, 1998 because the subject matter related to the hybridoma cell lines and antibodies obtained therefrom were fully supported and disclosed in the priority document. In particular, Example 8 of the provisional patent application and on pages 41-43 describe the preparation of hybridomas and monoclonal antibodies to human MBL which were deposited with the ATCC. The deposited antibodies are described throughout the specification of the provisional application. For example, on page 17, the three deposited hybridomas and the antibodies produced therefrom are described. The ATCC

Accession Number is left blank because the ATCC had not provided Applicants with that number at the time of filing. The antibodies were, however, all deposited on December 4, 1998. Copies of the actual forms submitted to the ATCC with the deposited material and a copy of the ATCC confirmation of the deposits, indicating that the deposits were accepted, were filed with the above-identified patent application. Thus, the hybridoma cell lines and antibodies produced thereby were fully disclosed and adequately described in the provisional priority document.

Accordingly, claims 19-21, 23-25, and 28-32 are entitled to the filing date of the claimed priority document, December 15, 1998.

Rejection of Claims 33-34 Under 35 U.S.C. §112, Second Paragraph

Claims 33-34 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention because of the recitation of "an effective amount". According to the Examiner, this rejection could be overcome by moving the phrase "of the isolated MBL binding peptide" from lines 2-3 of claim 33 to immediately after the term "an effective amount" in line 2 of claim 33. Applicants have made this change. Thus, it is believed that the rejection has been overcome.

Prior Art Rejections

Claims 18, 22, 33, and 35 have been rejected under 35 U.S.C. §102 and claims 18 and 26-27 have been rejected under 35 U.S.C. §103. Applicants have cancelled claim 35 and have amended independent claim 18 to recite the limitations of claims 19, 20, and 21. Each of claims 19, 20, and 21 were considered to be novel and non-obvious in view of the prior art. Since claims 22, 26-27, and 33 depend from claim 18, it is believed that the amendment to claim 18 is sufficient to overcome the rejection with respect to all of these claims.

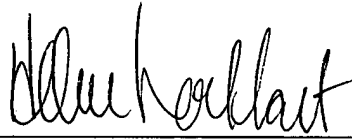
Summary

It is believed that all of the pending claims are now allowable. If the Examiner has any questions or comments, she is encouraged to contact Applicants' representative at the number listed below.

Respectfully submitted,

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MARKED-UP CLAIMS

18. (Amended) A composition, comprising an MBL inhibitor, wherein the MBL inhibitor is an isolated binding peptide that selectively binds to a human MBL epitope and that inhibits LCP associated complement activation, wherein the isolated MBL binding peptide has an MBL binding CDR3₁ region or a functional variant thereof of a monoclonal antibody produced by a hybridoma cell line selected from the group consisting of hybridoma cell line_(3F8), hybridoma cell line_(2A9), and hybridoma cell line_(hMBL1.2) deposited under ATCC accession numbers HB-12621, HB-12620, and HB-12619 respectively.

33. (Amended) The composition of claim 18, wherein the composition is a pharmaceutical composition including an effective amount of the isolated MBL binding peptide for treating an MBL mediated disorder [of the isolated MBL binding peptide]; and, a pharmaceutically acceptable carrier.

MARKED-UP SPECIFICATION

Please amend page 50 as follows:

All references, patents and patent applications that are recited in this application are incorporated in their entirety herein by reference.

Deposits: Hybridoma 3F8, 2A9, and hMBL1.2 were deposited on December 4, 1998 with the American Type Culture Collection (ATCC) as ATCC Accession Nos. HB-12621, HB-12620, and HB-12619, respectively, under the terms of the Budapest Treaty.

The ATCC is a depository affording permanence of the deposit and ready accessibility thereto by the public if a patent is granted. All restrictions on the availability to the public of the material so deposited will be irrevocably removed upon the granting of a patent. The material will be available during the pendency of the patent application to one determined by the Commissioner to be entitled thereto under 37 C.F.R §1.14 and 35 U.S.C §122. The deposited material will be maintained with all the care necessary to keep it viable and uncontaminated for a period of at least five (5) years after the most recent request for the furnishing of a sample of the deposited hybridomas, and in any case, for a period of at least thirty (30) years after the date of deposit or for the enforceable life of the patent, whichever period is longer. Applicants acknowledge its duty to replace the deposit should the depository be unable to furnish a sample when requested due to the condition of the deposit.

We claim: